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LS 6-0483a

OGC Has Reviewed

19 March 1956

MEMORANDUM FOR: Deputy Director (Support)

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SUBJECT: Loss Incurred by [REDACTED]

1. A memorandum from the Chief, NEA, dated 17 February 1956, recommends writing off, as a legitimate operational expense, the sum of [REDACTED] now charged to NEA Division contract [REDACTED]

2. The NEA memorandum states that [REDACTED] was sent to [REDACTED] in February 1953 to undertake certain operational activities. Since he was slated to be in [REDACTED] for an extended period, he leased a house for eighteen months. The proper operational opportunities failed to develop and [REDACTED] was recalled after about one year. Because of this early recall he forfeited six months advance rent in the sum of [REDACTED]

3. This Office has stated in previous opinions that personal expenses incurred as a result of a change in orders are normally not reimbursable. Previous cases of this nature generally have involved individuals who have lost advance rent or undergone other personal expenses as a result of a change of plans dictated by either operational or administrative problems. Such changes in orders are not peculiar to the activities of CIA and may occur in any Government agency. In another Government agency a loss such as this would not be reimbursable.

4. In order for the Agency to be able to reimburse [REDACTED] for this loss within the confines of its legal authority, it must be shown that the loss resulted directly and solely from the peculiar operational activities of CIA. Admittedly, almost any change in plans can be traced at least indirectly to "operational necessity." However, there is a fine line between cases of genuine operational necessity and others of a normal administrative nature. The decision as to whether or not [REDACTED] recall in this case was primarily for security or cover reasons directly related to operations or, on the other hand, was primarily in the interest of operational efficiency, is an administrative matter and is not to be made by this Office. If it can be ascertained that subject's

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recall was primarily to protect the cover and security of the peculiar operations of this Agency, we think reimbursement of his loss as a legitimate operational expense would be proper. If it must be admitted that the recall was primarily a result of inability to carry out the original operational plans, then the loss must be considered one resulting from administrative considerations not peculiar to this Agency, but which could have occurred anywhere else in the Government. In the latter case, the loss cannot be written off as an operational expense but must be considered personal to

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5. Our memorandum of 20 February 1956 on this subject may be of use to the operating division in attempting to alleviate hardship involved in this and similar cases concerning independent contractors.

6. The file is attached.

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Office of General Counsel

Attachment - file

OGC:JDM:mz

cc: Orig. & 1 - Addressee

Subject ✓

Signer

Legal

Vital

OGC Chrono

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